LAU TECK POH & ANOR v. KETUA PENGARAH JABATAN PENGANGKUTAN JALAN MALAYSIA & ANOR; YEONG OON KONG (INTERVENER)

HIGH COURT MALAYA, KUALA LUMPUR
WAN AHMAD FARID SALLEH J
[JUDICIAL REVIEW NO: 25-233-11-2013]
20 MARCH 2024

Abstract – *The implication of a certiorari order made by a Judicial Commissioner in quashing an impugned decision is that it is as if the impugned decision was never made. In a case where the decision of the Director General of Road Transport Department to cancel the registration of vehicle numbers and replacing them with new ones is quashed, the status quo remains and the vehicle registration certificate bearing the applicant's name prevails, rendering him the rightful owner of the said vehicle number.*

ROAD TRANSPORT: *Registration of vehicle numbers – Termination of – Decision of Director General of Road Transport Department to cancel registration of numbers and replacing them with new ones quashed by Judicial Commissioner – Implication of certiorari order – Whether impugned decision never made – Whether status quo remained – Whether vehicle registration certificate bearing applicant's name prevailed – Whether there was breach of natural justice – Road Transport Act 1987, s. 17(2)*

ROAD TRANSPORT: *Registration of vehicle numbers – Ownership – Rightful owner – Intervener claimed ownership – Whether intervener registered owner of vehicle numbers – Decision of Director General of Road Transport Department to cancel registration of numbers and replacing with new ones quashed by Judicial Commissioner – Implication of certiorari order – Whether impugned decision never made – Whether status quo remained – Whether vehicle registration certificate bearing applicant's name prevailed – Whether there was breach of natural justice – Road Transport Act 1987, s. 17(2)*

CIVIL PROCEDURE: *Judicial review – Certiorari – Decision of Director General of Road Transport Department to cancel registration of numbers and replacing with new ones quashed by Judicial Commissioner – Implication of certiorari order – Whether impugned decision never made – Whether status quo remained – Whether vehicle registration certificate bearing applicant's name prevailed – Whether there was breach of natural justice – Road Transport Act 1987, s. 17(2)*

The first applicant was interested in sourcing the registration numbers for his cars. One Encik Chau ('Chau') represented to the first applicant that he was the registered owner of the following numbers: A9, P8 and P9. The first applicant was keen on the said numbers and negotiated the purchase price

with Chau. The negotiations culminated in an agreement for the purchase of the said numbers. Upon conclusion of the sale of the said numbers, the first applicant accordingly paid Chau a total purchase consideration of RM690,000. Chau duly pre-signed the transfer forms, known as JPJK3, to transfer the said numbers from Chau to the first and second applicants in the following manner: (i) A9 to the first applicant; (ii) P8 to the second applicant; and (iii) P9 to the first applicant. The numbers were then duly transferred to the first applicant's name, which was duly reflected in the register of the Road Transport Department ('JPJ'). The JPJ accordingly issued the vehicle registration certificates for the said numbers in the first applicant's name. The first applicant's use of the said numbers was uninterrupted until the same was blacklisted and thereafter cancelled by the JPJ. The first applicant's acquisition of the said numbers was the subject matter of an investigation by the Malaysian Anti-Corruption Commission of Malaysia ('MACC'). At the request of MACC, the first applicant provided all the relevant documents to show that he was a *bona fide* purchaser of the said numbers and had validly acquired the same. Subsequently, sometime in 2013, the first applicant received a letter from the JPJ, requesting him to return the said numbers. The first applicant responded by asserting that no adverse findings were made by the MACC as alleged and reiterated that the said numbers were acquired by him lawfully. In response thereto, the first applicant received a 'without prejudice' letter from JPJ, stating that it had no alternative but to terminate the registration of the numbers and to replace them with other numbers. The second applicant received a similarly worded letter for the cancellation of number P8. Dissatisfied, the applicants wrote to the Minister of Transport appealing against the decision of the JPJ to terminate the registration of the said numbers. There was no response from the Minister but the Director General of JPJ ('DG') confirmed the earlier decision of the JPJ in cancelling the registration of the said numbers and replacing them with the new registration numbers respectively ('2013 impugned decision'). The DG asserted that the cancellation of the said registration numbers was due to the failure of the applicants to comply with the requirements of the Road Transport Act 1987 ('RTA'), Motor Vehicles (Registration and Licensing) Rules 1959 ('1959 Rules') and JPJ's internal regulations. Aggrieved by the impugned decision, the applicants commenced an application for judicial review to quash the same. The Judicial Commissioner ('JC') allowed the judicial review application and granted an order of *certiorari* to quash the decision of the DG in affirming the decision of the JPJ. The JC also made an order of *mandamus* directing the DG to re-register the said numbers to the applicant accordingly. Aggrieved by the said decision, the DG appealed to the Court of Appeal. The intervener, Yeong Oon Kong, came to know about the appeal filed by the DG at the Court of Appeal and filed a notice of motion seeking leave to intervene, which was allowed. The notice of motion was anchored on the following grounds, *inter alia*: (i) the intervener was the owner of the motor vehicle bearing the registration number A9; and (ii) as the

A B C D E F G H I

registered owner of the registration number A9, the intervener would, one way or another, be affected by the decision of the Court of Appeal. The DG's appeal on the registration numbers P8 and P9 was dismissed by the Court of Appeal. However, the issue with respect to the ownership of the registration number A9 between the applicants and the intervener was remitted to this court for determination. The intervener affirmed that: (i) he was the registered owner of a Mercedes-Benz bearing registration number A9; (ii) the number A9 was initially registered on a motor vehicle owned by one Tunku Sulaiman Tunku Kassim; (iii) by a power of attorney for consideration, Tunku Sulaiman conferred to the intervener to deal with the said motor vehicle in the manner that the intervener deemed fit; (iv) the number A9 was then transferred to a motorcycle and the intervener subsequently transferred the number A9 from his motorcycle to the said Mercedes-Benz. The intervener asserted that the applicant's version that registration number A9 was registered in Chau's name was incorrect. The applicants responded by submitting that: (i) the date of registration number A9 under the intervener's name was 15 January 2016 ('2016 decision') which, during this proceeding of judicial review, was still pending and had yet to be disposed of; (ii) the intervener should have filed an action for negligence against the DG on the issuance of the registration number A9; and (iii) the intervener had no *locus standi* to intervene as the intervener was not in any way involved in the decision-making process of the DG.

Held (ordering accordingly):

(1) Section 17(6) of the RTA expressly states that any licence holder 'who is aggrieved by the decision of the DG to cancel such licence' may appeal to the Minister against the decision. Therefore, the final decision in respect of motor vehicle licences lay with the DG. The JC, in granting the order of *certiorari* quashing the 2013 impugned decision, did not make any remark that the application was premised in the wrong provision of the RTA. What was more pertinent was that part of the decision was affirmed by the Court of Appeal. The Court of Appeal found nothing wrong with the intitulement stated in the judicial review application. Had the Court of Appeal found so, it would not have affirmed the decision of the JC in respect of numbers P8 and P9. The attempt for the intervener to relitigate the issue of intitulement was, therefore, misplaced. To re-open the issue would have the implication of a High Court Judge revisiting the decision made by the Court of Appeal which it was bound to follow. (paras 40 & 42)

(2) The 2013 impugned decision was quashed by the JC. The implication of the *certiorari* order made by the JC was that the impugned decision was never made. The attendant consequence would be that the letter from the DG was irrelevant since it was subsequently quashed, resulting

in there being no letter at all in law. The legal implication was that the *status quo* remained which was that the vehicle registration certificates bearing the applicant's name prevailed. In particular, the registration number A9 in the name of the first applicant prevailed. (paras 44-46)

(3) As to the legal status of the 2016 decision, Tunku Sulaiman himself was not sure whether there was a proper record of his purported ownership of number A9. His motor vehicle was left idle for so long that he had to apply and fill in Borang Permohonan Pengujudan dan Pengesahan Rekod Kenderaan in Borang JPJK16. It took two years for the JPJ to issue the confirmation of the record despite having Chau in the system as the registered owner of number A9. The DG's action in approving the application made by Tunku Sulaiman in the form of the 2016 decision when this judicial review application was ongoing without alerting the court was completely unacceptable. In any event, there was no evidence that the first applicant, being the registered owner of number A9, was given the right to be heard before the DG made the 2016 decision. This was in breach of the principle of natural justice which rendered the 2016 decision bad in law. Thus, the quashing of the impugned decision stood unchallenged. The first applicant was therefore the rightful owner of number A9. (paras 47-54)

Case(s) referred to:

Penang Development Corporation v. Teoh Eng Huat & Anor [1993] 2 CLJ 283 CA ***(refd)***
Pengarah Jabatan Pengangkutan Negeri Selangor & Ors v. Sin Yoong Ming [2015] 1 CLJ 1 FC ***(refd)***
Pernas OUE (KL) Sdn Bhd Trading As Hotel Istana v. Menteri Sumber Manusia Malaysia & Ors [2017] 1 CLJ 151 CA ***(refd)***
S Selvaraja T Singarathevar v. Timbalan Menteri Hal Ehwal Dalam Negeri Malaysia & Anor [1997] 2 CLJ Supp 275 HC ***(refd)***
Travis Holdings Ltd v. Christchurch City Council [1993] 3 NZLR 32 ***(refd)***

Legislation referred to:

Road Transport Act 1987, ss. 11, 17(2), (6)

For the appellant - Muhammad Shafee Abdullah, Noor Farhah Mustaffa, Kumutha Malar & Elton Ti; M/s Shafee & Co
For the respondent - Muhammad Hidayat Wahab; SFC
For the intervener - Loo Hsien Yang; M/s YK Loo & Co

Reported by Suhainah Wahiduddin

JUDGMENT

Wan Ahmad Farid Salleh J:

[1] This case has a long and chequered history.

[2] Sometime in October 2012, the first applicant was interested in sourcing the registration numbers for his cars. In the process, the first applicant got to know one Chau Hang Yong ("Encik Chau"). Encik Chau represented to the first applicant that he was the registered owner of the following numbers:

(i) A9;

(ii) P8; and

(iii) P9.

[3] Upon citing the original vehicle registration certificates on the said numbers, which were issued by the Road Transport Department ("JPJ"), the first applicant was convinced that Encik Chau was the legal and beneficial owner of the said numbers. The first applicant was keen on the said numbers and negotiated the purchase price with Encik Chau.

[4] The negotiations culminated in an agreement for the purchase of the said numbers.

[5] Upon conclusion of the sale of the said numbers, the first applicant accordingly paid Encik Chau a total purchase consideration of RM690,000. Encik Chau duly pre-signed the transfer forms, known as JPJ K3, to transfer the said numbers from Chau to the first and second applicants in the following manner:

(i) A9 to the first applicant;

(ii) P8 to the second applicant; and

(iii) P9 to the first applicant.

[6] The numbers were then duly transferred to the first applicant's name, which was duly reflected in the JPJ's register. The JPJ accordingly issued the vehicle registration certificates for the said numbers in the first applicant's name.

[7] The first applicant's use of the said numbers was uninterrupted until the same was blacklisted and thereafter cancelled by the JPJ.

Investigation By The MACC

[8] The first applicant's acquisition of the said numbers was the subject matter of the investigation by the Malaysian Anti-Corruption Commission of Malaysia ("MACC"). At the request of MACC, the first applicant provided all the relevant documents to show that he was a *bona fide* purchaser of the said numbers and had validly acquired the same.

[9] Subsequently, sometime in 2013, the first applicant received a letter from the JPJ requesting him to return the said numbers. The letter enclosed a "declaration form", which was pre-drafted by the JPJ for the first applicant to sign. The particulars of the declaration form that the first applicant was asked to sign are as follows:

(i) the first applicant was to admit that the investigation by MACC revealed that he had obtained the said numbers unlawfully;

(ii) since the said numbers were unlawfully obtained, the applicant agreed to surrender the same to the JPJ; and

(iii) the applicant would waive any rights to take legal action against the JPJ after the surrender of the said numbers.

[10] Needless to say, the first applicant refused to sign the declaration form.

[11] The first applicant then instructed his solicitors to write to the first respondent, the Director General of the JPJ ("DG"), to respond to the request from the JPJ. In a letter dated 14 March 2013, the applicant's solicitors wrote to the DG and asserted that no adverse findings were made by the MACC, as alleged. The first applicant, through his solicitors, reiterated that the said numbers were acquired by him lawfully.

[12] In response thereto, the first applicant received a "without prejudice" letter from JPJ Selangor stating that since the JPJ Selangor "did not receive" any response from the applicant, the JPJ Selangor had no alternative but to terminate the registration of the numbers and to replace them with other numbers. The letter was signed by Encik Adenan bin Md Isa ("Encik Adenan"), the then-acting Director of JPJ Selangor.

[13] The second applicant received a similarly worded letter for the cancellation of number "P8".

[14] Dissatisfied with the letter from the JPJ Selangor, the solicitors for the applicants wrote to the Minister of Transport appealing against the decision of the JPJ Selangor to terminate the registration of the said numbers.

[15] There was no response from the Minister but the DG, *vide* a letter dated 20 September 2013 to the applicants' solicitors, confirmed the earlier decision of the JPJ Selangor in cancelling the registration of the said numbers and replacing them with the new registration numbers respectively ("the impugned decision").

[16] In explaining the impugned decision, the DG asserted that the cancellation of the said registration numbers was due to the failure of the applicants to comply with the requirements of the Road Transport Act 1987, Motor Vehicles (Registration and Licensing) Rules 1959 ("the 1959 Rules") and JPJ's internal regulations.

A **The Judicial Review Application**

[17] Aggrieved by the impugned decision, the applicants commenced this application for judicial review to quash the same.

[18] On 8 March 2019, my learned predecessor (who was then a Judicial B Commissioner) allowed the judicial review application and granted an order of *certiorari* to quash the decision of the DG in affirming the decision of the acting director of JPJ Selangor to cancel the registration of the said numbers. The learned Judicial Commissioner also made an order of *mandamus* directing the DG to re-register the said numbers to the applicant accordingly.

C **[19]** The grounds of the learned Judicial Commissioner can be summarised as follows:

(i) the acting Director of JPJ Selangor's action in cancelling the said numbers, which was affirmed in the form of the impugned decision by the DG, was *ultra vires* and illegal as it failed to comply with s. 17(2) D of the Road Transport Act. The DG failed to establish that he had reason to believe that the said motor vehicles had been used or were intended to be used for an unlawful purpose. In any event, the applicants were not given the opportunity to make any representation before the cancellation of the said numbers;

E (ii) the impugned decision was in breach of the *audi alteram partem* principle of natural justice and tainted with procedural impropriety; and

(iii) the impugned decision was irrational, unreasonable and tainted with *mala fide*. The DG failed to inform the applicants that the JPJ had F proceeded to register the registration numbers "P8" and "P9" on motor vehicles belonging to one Ch'ng Ewe Gee less than a month after informing the applicants that the JPJ had cancelled the registration numbers. Encik Adenan, in his affidavit, failed to explain why the relevant numbers, which he had cancelled because of the alleged G non-compliance with the Road Transport Act and the 1959 Rules, had now become "valid".

At The Court Of Appeal

[20] Aggrieved by the decision of this court, the DG appealed to the Court of Appeal.

H **[21]** The intervener, Yeong Oon Kong, was unaware of the proceedings before this court at first instance. It was only in June 2020 that the intervener came to know about the appeal filed by the DG at the Court of Appeal.

[22] On 4 March 2021, the Court of Appeal allowed the notice of motion I filed by the intervener seeking leave to intervene. The notice of motion was anchored on the following grounds:

(i) the intervener was the owner of the motor vehicle bearing registration number "A9";

(ii) as the registered owner of the registration number "A9", the intervener would, one way or the other, be affected by the decision of the Court of Appeal; and

(iii) the intervener, through his solicitors, had written to the DG in May 2020 to seek information on the status of the appeal before the Court of Appeal, but to no avail.

[23] On 26 January 2023, the DG's appeal on the registration numbers "P8" and "P9" was dismissed by the Court of Appeal. However, the issue with respect to the ownership of the registration number "A9" between the applicants and the intervener was remitted to this court for determination.

[24] The order of the Court of Appeal *inter alia* states as follows:

> Maka Adalah Dengan Sebulat Suara
>
> Diperintahkan seperti berikut:
>
> (a) Rayuan dibenarkan sebahagian;
>
> (b) Bahawa Perintah Mahkamah Tinggi berkenaan dengan Nombor Pendaftaran "P8" dan "P9" disahkan;
>
> (c) Kes berkenaan hakmilik No. Pendaftaran A9 antara Pemohon dan Pencelah diremitkan semula ke Mahkamah Tinggi dan kos dalam kausa di Mahkamah Tinggi.

Remission To The High Court: The Intervener's Case

[25] Since the Court of Appeal had remitted the matter to this court on the issue of the ownership of the registration number "A9", I had instructed the parties to file their respective affidavits.

[26] The intervener filed his affidavit in encl. 71 ("IA-71"). In response thereto, the first applicant filed his affidavit in reply in encl. 73 ("AIR-73"). The intervener then filed his further affidavit in encl. 74 ("IA-74").

[27] The DG did not file any further affidavit.

[28] In his IA-71, the intervener affirmed as follows:

(i) he is the registered owner of a Mercedes Benz ("the said Mercedes") bearing registration number "A9". The said number was duly registered by the JPJ with the Vehicle Registration Certificate No. B9374592;

(ii) the number "A9" was initially registered on a Fiat Ardita 2000 ("the said motor vehicle") owned by one Tunku Sulaiman bin Tunku Kassim;

(iii) according to the registration book, Tunku Sulaiman had caused the said motor vehicle to be registered under his name with the registration number "A9" on 21 September 1963;

(iv) sometimes in March 2014, Tunku Sulaiman applied to the JPJ in Form JPJK16 for the JPJ to confirm the registration record of the said vehicle;

(v) after a series of correspondences, the intervener asserted that finally, the DG confirmed that the number "A9" should be re-registered in the name of Tunku Sulaiman;

(vi) by a power of attorney for consideration dated 11 August 2015, Tunku Sulaiman conferred to the intervener to deal with the said motor vehicle in the manner that the intervener deemed fit;

(vii) the number A9, which was registered on the said motor vehicle, was then transferred to a motorcycle with the registration number "BMX 87". The interchange was duly registered by the JPJ;

(viii) the intervener subsequently transferred the number A9 from his motorcycle to the said Mercedes; and

(ix) the intervener asserted that the applicant's version that registration number "A9" was registered in Encik Chau's name on 11 December 2012 was incorrect. In any event, there is no trail revealed in the affidavit in support of the applicants in encl. 3 ("AIS-3") as to how Encik Chau acquired the number "A9".

The Applicants' Response

[29] In his AIR-73, the first applicant affirmed as follows:

(i) the date of registration of number "A9" under the intervener's name was 15 January 2016 ("the 2016 decision"), which, during this proceeding of judicial review, was still pending and has yet to be disposed of;

(ii) the first applicant contended that the intervener should have filed an action for negligence against the DG on the issuance of the registration number "A9".

[30] In para. 16 of AIR-73, the first applicant averred that the intervener has no *locus standi* to intervene as the intervener was not in any way involved in the decision-making process of the DG.

The Intervener's Submission

[31] Learned counsel for the intervener mounted his attack on the applicants' case by contending that the applicants have proceeded on a cause of action unknown to the law. According to learned counsel, the applicant's reliance on s. 17(6) of the Road Transport Act is misplaced. Learned counsel

contended that s. 17 only regulates the issuance of motor vehicle licenses. On the contrary, learned counsel for the intervener highlighted that the more appropriate provision should have been s. 11 of the Road Transport Act, which outlines the procedure for assigning a particular vehicle registration number.

[32] Learned counsel then submitted that there is no basis for the applicants to challenge the cancellation of the registration of the said numbers premised upon s. 17 of the Road Transport Act.

[33] Secondly, learned counsel for the intervener submitted that in a judicial review application, prerogative relief ought to be refused if third-party rights will be affected. Citing the judgment of the New Zealand High Court in *Travis Holdings Ltd v. Christchurch City Council* [1993] 3 NZLR 32, learned counsel for the intervener submitted that the court ought to consider the effect which any relief of the kind sought would have on third parties.

[34] In the circumstances, learned counsel for the intervener submitted that the number "A9" ought not to be granted to the first applicant since this would adversely affect the right of the intervener as the current owner of that registration number.

[35] In any event, learned counsel submitted that the intervener was a total stranger to the impugned decision. Since the intervener was validly assigned the number "A9", any attempt to deprive him of this right would occasion substantial injustice to him.

[36] Thirdly, learned counsel for the intervener submitted that the 2016 decision to register the intervener of the number "A9" was not affected by the impugned decision which was made in 2013. Learned counsel contended that the 2016 decision remained valid as the impugned decision was only quashed in 2019. My attention was then drawn to the judgment of the Supreme Court in *Penang Development Corporation v. Teoh Eng Huat & Anor* [1993] 2 CLJ 283. The case carries the proposition that an order, even if not made in good faith, is still an act capable of legal consequences. It bears no brand of invalidity upon its forehead. Unless the necessary proceedings are taken at law to establish the cause of invalidity and get it quashed or otherwise upset, it will remain as effective for its ostensible purpose as the most impeccable of orders.

[37] It is for this reason that learned counsel for the intervener argued that the 2016 decision remains valid and binding in the absence of any challenge to the same.

[38] Fourthly, learned counsel further submitted that when the number "A9" was assigned to the intervener in 2016, the impugned decision of the DG was still valid and existed. The intervener's contention is that since the

maker of the 2016 decision was unaware of the invalidity of the 2013 impugned decision, the 2016 decision will remain valid, binding and enforceable.

Analysis

[39] I will first address the issue of whether the applicants have commenced this judicial review application on the wrong legal footing. As can be seen from the application in encl. 2, the applicants anchored their application on s. 17(6) of the Road Transport Act. It provides as follows:

> Any person, being an applicant for or holder of a motor vehicle licence, who is aggrieved by the decision of the Director General to refuse to grant or to cancel such licence may, within twenty-one days of the date of confirmation by the Director General under subsection (5), appeal to the Minister, and on such appeal the Minister after such inquiry, if any, as he thinks necessary may make such order as he considers fit, and any order so made shall be binding on the Director General and on the appellant.

[40] I have to underline that in her grounds of judgment, the learned Judicial Commissioner had no issues with the intitulement. On the contrary, the learned Judicial Commissioner held that s. 17(6) expressly states that any licence holder "who is aggrieved by the decision of the Director General to cancel such licence" may appeal to the Minister against the decision. Therefore, according to the learned Judicial Commissioner, the final decision in respect of motor vehicle licences lies with the DG.

[41] In short, the learned Judicial Commissioner, in granting the order of *certiorari* quashing the impugned decision, did not make any remark that the application was premised on the wrong provision of the Road Transport Act. What is more pertinent is that part of the decision was affirmed by the Court of Appeal. It should be noted that the Court of Appeal found nothing wrong with the intitulement stated in the judicial review application. Had the Court of Appeal found so, it would not have affirmed the decision of the learned Judicial Commissioner in respect of numbers "P8" and "P9".

[42] The attempt for the intervener to relitigate the issue of intitulement is, therefore, misplaced. To re-open the issue would have the implication of me, as a High Court Judge, revisiting the decision made by the Court of Appeal which I am bound to follow. In *S Selvaraja T Singarathevar v. Timbalan Menteri Hal Ehwal Dalam Negeri Malaysia & Anor* [1997] 2 CLJ Supp 275, it was that under the principle of *stare decisis*, the court below is bound to follow the decision on a point which constituted a *ratio decidendi* of a superior court.

[43] I will now address the remaining issues raised by the intervener.

[44] It is to be recalled that the 2013 impugned decision was quashed by the learned Judicial Commissioner. What would be the implication of granting the order of *certiorari* to an impugned decision? The short answer to the question is it is as if the impugned decision was never made. If any

authority is needed on the aforesaid proposition, it can be found in the judgment of the Court of Appeal in *Pernas OUE (KL) Sdn Bhd Trading As Hotel Istana v. Menteri Sumber Manusia Malaysia & Ors* [2017] 1 CLJ 151; [2016] MLJU 1775. Ummi Kalthum Abdul Majid JCA, in delivering the judgment of the court, remarked as follows:

> The question which we need to ask ourselves was what was the effect of the first High Court decision when it quashed the Minister's first decision? We were of the view that the first High Court decision had the effect of quashing the Minister's first decision as if it was never made.

[45] The implication of the *certiorari* order made by the learned Judicial Commissioner is that the impugned decision was never made. If the impugned were never made, the attendant consequence would be that the letter dated 20 September 2013 from the DG is irrelevant since it was subsequently quashed, resulting in there being no letter at all in law.

[46] What would be the legal implication if there was no such letter in law? The legal implication is that the *status quo* remains. What is the *status quo*? The *status quo* is that the vehicle registration certificates bearing the applicant's name prevail. In particular, the registration number "A9" in the name of the first applicant prevails.

[47] The question that arises is, what is the legal status of the 2016 decision? It is to be recalled that Tunku Sulaiman himself was not sure whether there was a proper record of his purported ownership of number "A9". His motor vehicle was left idle for so long that he had to apply and fill in Borang Permohonan Pengujudan Dan Pengesahan Rekod kenderaan in borang JPJK16 on 12 March 2014. In the form, Tunku Sulaiman stated that his motor vehicle was inactive due to:

> Sebab gear box kenderaan tidak dapat ganti yang lain.

[48] It took two years for the JPJ to issue the confirmation of the record despite having Encik Chau in the system as the registered owner of number "A9" since 11 December 2012. This is admitted by the intervener in para. 15(a) of IA-10:

> Merujuk Perakuan Pendaftaran Kenderaan dengan nombor pendaftaran "A9" yang diperolehi sewaktu prosiding di Mahkamah Rayuan dengan Nombor Siri 3831436 di atas nama Chau Hang Yong, dokumen tersebut menunjukkan bahawa ia telah didaftarkan di bawah nama Chau pada 11 Disember 2012.

That Encik Chau is the registered owner of the number "A9" is also confirmed by Encik Adenan in his affidavit in reply in encl. 10 ("AIR-10").

[49] However, what is more disturbing is, in his AIR-10, which was dated 7 April 2014, Encik Adenan did not even allude to the fact that there was a pending application made by Tunku Sulaiman in Borang JPJK16, which was eventually approved by the DG.

[50] That aside, I find that the DG's action in approving the application made by Tunku Sulaiman in the form of the 2016 decision when this judicial review application is ongoing without alerting the court is completely unacceptable.

[51] In any event, there is no evidence before me that the first applicant, being the registered owner of number "A9", was given the right to be heard before the DG made the 2016 decision. This was in breach of the principle of natural justice which renders the 2016 decision bad in law.

[52] Since the 2016 decision is bad in law, the quashing of the impugned decision stands unchallenged.

[53] The first applicant is therefore the rightful owner of number "A9".

[54] This court is sympathetic to the fate of the intervener. The denial of his right is due to the negligence of the DG. In that sense, the applicant's remedy does not lie in a reviewing court. He has to take his case in a civil court.

Findings

[55] In the result, I reaffirm that the impugned decision in respect of number "A9" is bad in law and is hereby quashed.

[56] This court reasserts that the first applicant is the rightful owner of number "A9".

[57] Costs RM3,000 is granted against the first respondent.

[58] As against the intervener, there shall be no order as to costs.

[59] By way of a post-script and for the benefit of the respondents I would like to reiterate the instructive judgment of the Federal Court in *Pengarah Jabatan Pengangkutan Negeri Selangor & Ors v. Sin Yoong Ming* [2015] 1 CLJ 1; [2015] 1 MLJ 1:

> We are of the view that the registers maintained by the department pursuant to s. 8 of the Act must contain accurate particulars of all vehicles registered by the department. This is because the prospective purchasers of the vehicles and those involved in the motor trade rely on such information to conduct private and commercial transactions. If the registers are not reliable they will affect those in the motor trade industry and the public who purchase secondhand vehicles.